THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.2086 of 2006

Dated: 23.08.2006

Between:

T, Bangaraiah, aged 49 years E-350698, Conductor, Kovvur Depot, R/o Kovvur, West Godavari district

.... PETITIONER

AND

The APSRTC, rep.by its Regional Manager
West Godavari Region at Eluru & another

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.2086 of 2006

ORDER:

The writ petition is filed by the petitioner aggrieved by the proceedings of the 2nd respondent dated 12.12.2005 in imposing the punishment of withholding annual increment for a period of two years with cumulative effect. The grievance of the petitioner is that withholding of annual increment with cumulative effect is a major penalty, but, however, imposed such penalty without conducting any enquiry. Therefore, the impugned proceedings are liable to be quashed.

At the time of hearing, learned counsel for the petitioner produced Circular No.LO.1/99 dated 19.02.1999 issued by the Vice Chairman and Managing Director referring to Regulation 8 of APSRTC Employees (CC&A) Regulations and the penalties that may be imposed upon an employee by the disciplinary authority and also referring to the judgment of the Supreme Court in **Kulwanth Singh Gill V. State of Pubjab**[1], wherein it was held that imposing punishment with cumulative effect would amount to a major penalty and the same cannot be imposed unless an enquiry is conducted and, therefore, instructed all disciplinary authorities not to impose the punishment of withholding the increment with cumulative effect until an enquiry as contemplated under CC&A Regulations is conducted.

Therefore, in the light of the judgment of the Supreme Court and

circular instructions, the punishment imposed by the 2nd respondent is illegal and unsustainable.

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for respondents.

Admittedly, the 2nd respondent imposed the punishment of withholding of two annual increments with cumulative effect. It is also not disputed that the said punishment was imposed without conducting any regular enquiry. In the light of the circular instructions and also the judgment referred supra, such imposition of major penalty is illegal and unsustainable, as it was not preceded by regular departmental enquiry.

Accordingly, the impugned proceedings dated 12.12.2005 are set aside and the writ petition is allowed. However, this order will not preclude the respondents, if they choose to take appropriate action with reference to alleged irregularity committed by the petitioner. No costs.

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N.V. RAMANA, J

Date: 23rd AUGUST 2006.

BSS/NSR

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[1] 1990(1) LLJ 1635